

Remarks

The Office Action rejected claims 1-3, 5, 6, 7, 9 and 18 under 35 U.S.C. §102(a) and (b) as being anticipated by Klepper and claims 1-18 under 35 U.S.C. §103(a) as unpatentable over Klepper and Ryals.

Klepper investigated the hypothesis that NO<sub>x</sub> production is causal to herbicide action, and that the combination of PS II inhibitors and salicylic acid could increase the production of NO<sub>x</sub> by plants. In order to test this hypothesis, applicants conducted experiments in which both NO and salicylate were able to potentiate atrazine herbicidal activity on tobacco. However, NO completely inhibited salicylate potentiation at both 48 and 72 hours post spraying, suggesting that salicylate and NO are antagonistic. Thus, salicylate activity is independent of NO and Klepper does not disclose a herbicidal composition comprising a herbicidally effective amount of a PS II inhibitor and a salicylate or other SAR inducer. Accordingly, withdrawal of the rejection of claims 1-3, 5, 6, 7, 9 and 18 under 35 U.S.C. §102(a) and (b) as anticipated by Klepper is requested.

Similarly, Ryals et al. is relied upon to show that potentiation of atrazine activity is observed in response to sodium salicylate, acibenzolar-S-methyl and other substituted salicylates. While these molecules induce a plant defense response, applicants have shown that potentiation of atrazine by acibenzolar-S-methyl and other salicylates is not SAR dependent and does not work through SAR. Thus, Klepper and Ryals et al. are not properly combinable and do not render claims 1-18 unpatentable under 35 U.S.C. §103(a) over the combination of Klepper and Ryals et al.

Submitted herewith in support of these Remarks is a Declaration under 37 C.F.R. §1.132 by F. Paul Silverman, an inventor of the present application.

Favorable consideration and allowance of claims 1-18 is respectfully requested.

If any fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account No. 23-0785.

Respectfully submitted,

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

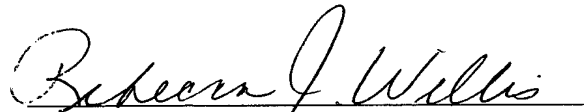
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